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JUN 18 2010

DEPARTMENT OF
WATER RESOURCES

LAWRENCE G. WASDEN
Attorney General

CLIVE J. STRONG (ISB No. 2207)
Deputy Attorney General
Chief, Natural Resources Division

DAVID I. STANISH (ISB No. 7310)
Deputy Attorney General
P.O. Box 44449
Boise, Idaho 83711-4449
Telephone: (208) 334-2400
Facsimile: (208) 854-8072

*Counsel for the State of Idaho,
Department of Lands*

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

Subcase No. 47-04374

**MOTION TO FILE LATE
OBJECTION**

The State of Idaho, Department of Lands (IDL), by and through the undersigned deputy attorney general, hereby moves the Court for an order granting IDL leave to file the late objection attached hereto.

The grounds for this motion are as follows:

1. On January 29, 2007, the Idaho Department of Water Resources Director filed its Director's Recommendation for water right no. 47-04374;
2. On September 19, 2007, the claimant of water right no. 47-04374, Point Ranch

Inc., filed an objection to the Director's Recommendation;

3. On November 24, 2009, the Court held an initial hearing in this subcase;

4. The IDL has recently discovered, through excusable neglect, that one of the points of diversion recommended in this subcase (T14S R15E S36) occurs on State land without IDL permission; and

5. The IDL's late objection will not unduly delay the proceedings in this subcase where the next action set herein is a status conference on December 14, 2010.

Oral argument is requested on this matter.

PRAYER FOR RELIEF

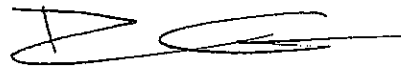
1. That the Court enter an order granting IDL leave to file the late objection attached hereto; and

2. That the Court grant such other or further relief as it deems proper and just.

RESPECTFULLY SUBMITTED this 17th day of June 2010.

LAWRENCE G. WASDEN
Attorney General

CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division



DAVID I. STANISH
Deputy Attorney General

CERTIFICATE OF SERVICE

I certify that on this 17th day of June 2010, I caused to be served the original and copies of the **MOTION TO FILE LATE OBJECTION** on the following persons by the methods indicated:

1. Original to:

CLERK OF THE DISTRICT COURT
SNAKE RIVER BASIN ADJUDICATION
253 THIRD AVENUE NORTH
PO BOX 2707
TWIN FALLS, ID 83303-2707

- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Federal Express
- ☐ Facsimile: (208) 736-2121
- ☐ Email:

2. Copies to:

POINT RANCH INC
Represented by:
DAVID A. COLEMAN
P.O. BOX 525
TWIN FALLS, ID 83303-0525

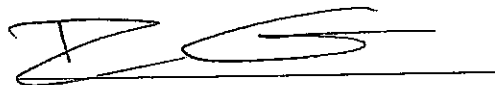
- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Federal Express
- ☐ Facsimile:
- ☐ Email:

USDI BUREAU OF RECLAMATION
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Federal Express
- ☐ Facsimile:
- ☐ Statehouse Mail

IDWR DOCUMENT DEPOSITORY
PO BOX 83720
BOISE, ID 83720-0098

- ☐ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Federal Express
- ☐ Facsimile: (208) 287-6700
- ☒ Statehouse Mail



**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re SRBA

Case No. 39576

A. Subcase Number: 47-04374
(Insert water right number)

**STANDARD FORM 1
OBJECTION**

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: State of Idaho
Department of Lands
Address: 300 N 6th, Ste 103
PO Box 4449
Boise, Idaho 83702-5956
Daytime Phone: (208) 334-0200

Name and Address of Attorney, if any:

Attorney Name: LAWRENCE G. WASDEN
Attorney General
CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division
DAVID I. STANISH (ISB # 7310)
Deputy Attorney General
Attorney Address: Office of the Attorney General
Joe R. Williams Bldg.
700 W. State St., 2nd Floor
P.O. Box 44449
Boise, ID 83711-4449
Attorney Phone No. (208) 334-2400

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Point Ranch Inc
Address: 1138-B HWY 93
Rogerson, Idaho 83302

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☒ **Name and Address**

Should be: State of Idaho, Department of Lands, 954 West Jefferson St., P. O. Box 8372, Boise, ID 83720-0050 should be added as a joint owner of the water right for that portion of the point of diversion owned by the State of Idaho, Department of Lands, hereinafter "IDL."

2. ☐ **Source**

Should be: _____

3. ☐ **Quantity**

Should be: _____

4. ☐ **Priority Date**

Should be: _____

5. ☒ **Point of Diversion**

Should be: IDL owns the section 36, T14S, R15E, B.M.. The claimant has no authorization to claim these lands as a point of diversion for this water right. These lands should either be deleted from this water right or be included in a water right under joint ownership with IDL.

6. ☐ **Instream Flow Description**

Should be: _____

7. ☐ **Purpose(s) of Use**

Should be: _____

8. ☐ **Period of Year**

Should be: _____

9. ☐ **Place of Use**

Should be: _____

10. ☐ **Other Provisions Necessary**

Should be: _____

11. **I object because:**

- ☐ This water right should not exist.
☐ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S):

The state's ownership of the above-described point of diversion, as well as the provisions of state lease no. G-7548, indicate that the affected lands should either be deleted from this water right or be included in a water right under joint ownership with IDL.

Attached hereto is a map that shows the land owned by IDL and the water right claimed.

F. VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Ada)

DAVID I. STANISH, Deputy Attorney General, duly sworn, upon oath, deposes and says:

That the State of Idaho, Department of Lands, in its proprietary capacity is filing this objection and that I am a Deputy Attorney General authorized to represent the State of Idaho, Department of Lands, which is a party/claimant in this proceeding, as defined by I.C. § 42-1401A(1) and (7), and I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

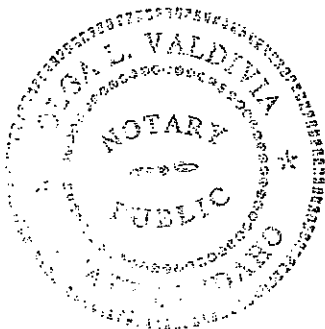
LAWRENCE G. WASDEN
Attorney General
CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division
DAVID I. STANISH
Deputy Attorney General

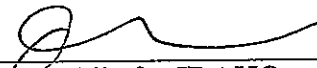


By Attorney signing in representative capacity

Subscribed and sworn to before me on: _____

6/16/2010
(Insert Date)




Notary Public for IDAHO

Residing at: BOISE, ID

My commission expires: 2/8/2012

INSTRUCTIONS FOR MAILING

You must mail the objection to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on this 17th day of June 2010, I caused the original and the copies of this objection, including all attachments, to be served on the following persons by the method designated:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
Twin Falls, Idaho 83303

U.S. MAIL

2. One copy to the owner of the water right at the following address:

Point Ranch Inc
Represented by:
David A. Coleman
P.O. Box 525
Twin Falls, ID 83303-0525

U.S. MAIL

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

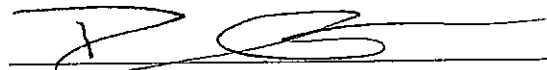
STATEHOUSE MAIL

United States Department of Justice
Environment & Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

U.S. MAIL

Chief of Natural Resource Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449

(not applicable)



Signature of Objector or attorney
Mailing on Objector's behalf

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 47-4374

NAME AND ADDRESS: POINT RANCH INC
1138-B HWY 93
ROGERSON ID 83302

SOURCE: BIG SPRINGS

TRIBUTARY: SINKS

QUANTITY: 3.050 CFS

The quantity of water under this right for domestic and stockwater uses shall not exceed 13,000 gallons per day.

PRIORITY DATE: 05/15/1885

POINT OF
DIVERSION:

T14S R15E S36 NENWSW Within TWIN FALLS County

T15S R15E S2 SWSWNE Within TWIN FALLS County

T15S R15E S12 NESWNE Within TWIN FALLS County

T15S R15E S12 NWSENE Within TWIN FALLS County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	01/01 12/31	0.190 CFS
IRRIGATION	04/01 10/31	2.800 CFS
DOMESTIC	01/01 12/31	0.060 CFS

PLACE OF USE: IRRIGATION in TWIN FALLS County

T14S R15E S35	NESW	28.00	T14S R15E S35	SWSW	11.00
T14S R15E S35	SESW	37.00	T14S R15E S35	NWSE	34.00
T14S R15E S35	SWSE	30.00			

STOCKWATER same as IRRIGATION

DOMESTIC same as IRRIGATION

140 ACRES TOTAL

This right is limited to the irrigation of 115 acres within the place of use described above in a single irrigation season.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

The quantity of water decreed for this water right for domestic use and stockwater use is not a determination of historical beneficial use.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Posted Notice

Stockwater use is for 800 range cattle.

**Point of Diversion
Basin 47
Sequence Number 4374
T14S15E – SEC36**

TOWNSHIP	RANGE	SEC	QQ	GOVTLOTNUM	BASINNO	SEQNO	COUNTY	ACRES	ENDOWMENT	ACQ Date
14S	15E	36	NENWSW		47	4374	TWIN FALLS		PUBLIC SCHOOLS	5/15/1893



Activity Report

Township	Range	Section	Ownership	Activity Type	Instrument #	Remarks	Search
14S	15E	36	All	All			

	14S 15E	36	10	Public Schools	STATE GRANT		640.00	0.00	640.00
	Description:								
	Remarks: Date of Grant 5-12-1893								
	14S 15E	36	20	Public Schools	EASEMENT 221		0.00	0.00	640.00
	Description:								
	Remarks: Oregon Short Line Railroad - Railroad - Relinquished 10-16-1984								
	14S 15E	36	30	Public Schools	GRAZING LEASE 7579		0.00	0.00	640.00
	Description:								
	Remarks: Cancelled 6-15-2000								
	14S 15E	36	40	Public Schools	GRAZING LEASE 7548		0.00	0.00	640.00
	Description:								
	Remarks: Expires 12/31/2011								
	14S 15E	36	50	Public Schools	OIL & GAS LEASE 02102		0.00	0.00	640.00
	Description:								
	Remarks: Trinity Exploration, Inc. Cancelled 12/2/2009								
	14S 15E	36	50	Public Schools	OIL & GAS LEASE 02102		0.00	0.00	640.00
	Description:								
	Remarks: Trinity Exploration, Inc.(Tract 5) Cancelled 12/2/2009								

STATE OF IDAHO
STATE LAND LEASE

LEASE NUMBER: G-7548

This lease agreement is made and entered into by and between the State of Idaho, acting by and through the State Board of Land Commissioners (lessor) and JR Simplot Revocable Trust (lessee)

HC 85 Box 275 Grand View ID 83624
(Address) (City) (State) (Zip)

This lease shall commence January 1, 2002, and terminate December 31, 2011.

The annual rent payment is due on May 1 of each year.

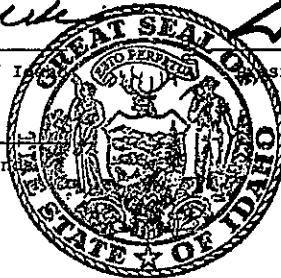
The lessor, in consideration of the rental paid and the covenants, conditions and restrictions hereinafter set forth, in attachment B, does hereby lease and demise unto the lessee the lands described in attachment A at the rates and uses specified herein; grazing 1,280.00 acres containing 174.00 AUMs, cropland 0.00 acres of dryland at 0.00 per acre, 0.00 acres irrigated land at 0.00 per acre and 0.00 acres of wasteland at 0.00 per acre, miscellaneous 0.00 per annum, or 0.00 premium bid.

IN WITNESS WHEREOF, The parties hereto have caused these presents to be duly executed the day and year first above written.

COUNTERSIGNED:

STATE BOARD OF LAND COMMISSIONERS OF THE STATE OF IDAHO

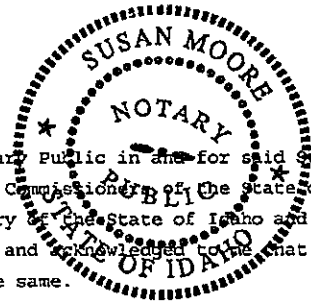
Pete T. Cenarrusa Dirk Kempthorne
Secretary of the State of Idaho President of the State Board of Land Commissioners
and Governor of the State of Idaho
Winston Wiggins
Director, Department of Land



STATE OF IDAHO

COUNTY OF Ada

On this 31 day of October, in the year 2001, before me, a Notary Public in and for said State, personally appeared Dirk Kempthorne, known to me to be the president of the State Board of Land Commissioners of the State of Idaho and the Governor of the State of Idaho; and Pete T. Cenarrusa, known to me to be the Secretary of the State of Idaho and Winston A. Wiggins, known to me to be the Acting Director, that executed the within instrument, and acknowledged to me that the State Board of Land Commissioners of the State of Idaho and the State of Idaho executed the same.



IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year last above written.

Residing at Boise, Idaho, Commission expires 06-08-2007 Susan Moore
Notary Public for Idaho

***** L E S S E E *****

STATE OF IDAHO

J.R. Simplot Revocable Trust
J.R. Simplot Trust (lessee)
by Randalyn Lewis - Atty in Fact (lessee)

COUNTY OF LINCOLN

On this 22 day of OCTOBER, in the year 2001, before me, a Notary Public in and for said State, personally appeared RONALD N. GRAVES

known to me to be the lessee that executed the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year last above written.

Residing at Graves View, Idaho, Commission expires 4-12-2003 John D. Dwyer
Notary Public for Idaho

STATE OF IDAHO
STATE LAND LEASE

LEASE NUMBER: G-7548

PAGE 2

ATTACHMENT A

SPECIAL PROVISIONS:

Section 36 to be used in conjunction with the Ridge BLM Allotment under a deferred rotation system by cattle from May 1st to October 31st. Section 16 to be used by cattle in conjunction with private land under a deferred rotation schedule from May 1st to November 30th.

DESCRIPTION OF PROPERTY:

COUNTY	ACRES	SUBDIVISION DESCRIPTION	SEC.	TWP.	RGE.	ENDOW.
TWIN FALLS	640.00	ALL	36 00	14 S	15.0 E	PS
TWIN FALLS	640.00	ALL	16 00	15 S	16.0 E	PS

**STATE OF IDAHO
STATE LAND LEASE**

ATTACHMENT B

This lease is made pursuant to the laws of the State of Idaho and the Rules and Regulations governing grazing leases and cropland leases, IDAPA 20.03.14

1. USE OF LAND

The lands herein described shall be used for the purpose of grazing and farming as specified on the signature page; no other uses shall be made of these lands without the prior written approval of the lessor.

2. RECLASSIFICATION OF LAND USE

At the sole discretion of the lessor, lands under this lease may be reclassified in whole or in part for agricultural, commercial, homesite, or other purposes that would result in increased rentals to the lessor. For uses other than cropland or grazing the lands affected will be dropped from the lease.

3. RATE OF RENT – CHANGE OF RENT

Lessee agrees to pay to the lessor, in lawful money of the United States, each year's rent in advance, and prior to the legal possession of the property for such year, an annual rent for each acre of cropland and every AUM covered by this lease. The rent shall be payable on or before the date specified on the signature page. The lessor reserves the right to increase or decrease the annual rent, and the lessee will be notified six months in advance of the first payment of any increase.

4. RIGHT OF LESSOR TO SELL – APPRAISAL OF IMPROVEMENTS – APPROVAL OF IMPROVEMENTS REQUIRED

The lessor reserves the right to sell all or any portion of the land herein described and the lessee agrees to deliver immediate possession unless the lessee is to be permitted to harvest a growing crop. In such event, lessee shall have possession of only the land on which such crops are growing. The lessee will be notified of a scheduled sale at least thirty (30) days prior to sale date. When creditable improvements or growing crops are present, they will be appraised in accordance with Idaho Code, Section 58-313, by the lessor and the lessee will be paid for the Improvements or crops by the purchaser on the day of sale; lessor's appraisal shall be conclusive.

Prior written approval of lessor is required to make permanent range improvements, construct permanent buildings, or clear the land for agricultural uses. Failure to secure such written approval shall constitute forfeiture of the value of such improvement in case of sale or lease conflict.

5. RENEWAL OF LEASE – APPRAISAL OF IMPROVEMENTS

If the lessee is not the successful bidder at the expiration of this lease then the value of improvements recognized in Section 4 above shall be paid by the successful bidder to the lessee prior to possession provided no delinquent rent is owed. Improvement payments shall be applied towards any rent due before being disbursed to lessee.

6. RELINQUISHMENT OF RIGHTS

The lessee agrees to relinquish possession of the leased premises upon breach of any of the conditions herein set forth, with all permanent improvements thereon in good order and condition when such breach results in cancellation or forfeiture of this lease.

7. TIMBER ON LAND UNDER LEASE – STATE FIRE LAWS

This lease is made subject to all present and future timber sale contracts. The lessor reserves the right to restrict or prohibit grazing use on all or portions of the land leased for timber management purposes. The lessee will be given one hundred eighty (180) days written notice, prior to turn out of livestock on lands leased, of any such restrictions or termination of grazing use, together with a map of the restricted area. This lease does not authorize the lessee to cut any timber growing on the land leased; any unauthorized use of such timber by the lessee or with his knowledge or consent, shall work a forfeiture of his lease without notice, and said lessee shall be responsible for treble damages to said timber. Lessee is subject to the provisions of state fire laws except for fire protection charges.

8. MINERAL RESERVATIONS

This lease is subject to any mineral lease (including oil, gas and geothermal resource leases) that is now in force or effect or that may hereafter be granted on the lands or any part thereof included herein as provided by Title 47, Idaho Code; provided, however, when a mineral lease is granted after the granting of this lease, the mineral lessee shall give a good and sufficient bond to protect the lessee herein from all damage occasioned to the surface of the lands embraced in this lease, or improvements thereon, whether the damage is due to mineral extraction or rights-of-way or other activities incident to mineral extraction.

9. GRAZING REGULATIONS

For grazing use, the grazing period and the number of stock may be fixed and determined by the lessor. The grazing lessee shall furnish such information as may be required from time to time, to assist in determining the grazing period and number of stock to be grazed. A lessee may be required to participate in a resource management plan which includes all or part of the lands described herein. Any written agreement concerning a management plan will be a condition of this lease.

Where sheep are grazed on land included in this lease, they shall not be bedded more than two nights consecutively on the same bedding ground without prior approval of the lessor.

10. PAYMENTS OF TAXES AND WATER CHARGES

Unless otherwise provided, the lessee shall pay all water charges, assessments or taxes of whatsoever nature that may be legally levied or assessed against the land herein described, or any portion thereof, and if the same is not paid it shall constitute a lien in favor of the State of Idaho against all Improvements or crops growing on said land.

11. SUBLEASING -- ASSIGNMENT

The lessee shall not sublease any of the land embraced in this lease without prior written approval of lessor. The lessee shall not assign this lease except upon the written approval of the lessor on forms provided for that purpose, and only where the rent owing has been paid in full, except that if a rental extension has been granted, such extension shall be assumed by the assignee and if improvements exist, such will be purchased by the assignee.

12. RIGHT OF ENTRY AND INSPECTION -- ABANDONMENT

The lessor reserves the right to enter upon land, or any portion thereof, during the term of this lease for the purpose of inspecting the property. Should any of the property covered by this lease be abandoned, or the lease cancelled or forfeited for any breach of condition herein contained, all improvements placed upon the property by the lessee shall remain a part of the realty and title thereto shall vest in the State of Idaho.

13. LESSOR PROTECTED AGAINST WASTE -- NOXIOUS WEED CONTROL

The lessee shall use the property under this lease in such manner as will best protect the State of Idaho against loss or waste, and shall cooperate with the lessor or any other agency authorized to undertake programs for control or eradication of noxious weeds. The lessee shall take measures to control noxious weeds on the leased land in accordance with Title 22, Chapter 24, Idaho Code. Control of noxious weeds on state grazing lands shall be shared jointly by the lessee and lessor with the lessor's share subject to funds appropriated for that purpose.

14. FORFEITURE OF LEASE

In case the lessee fails to comply with any of the covenants, terms or conditions of this lease, the lessor may forfeit or cancel the lease upon ten days notice to the lessee and the lessee shall not, during the period of notice, remove any of the improvements or crops thereon, whether the crops have been harvested or not. The lessee shall, upon lease expiration, deliver immediate possession of the lands herein to the lessor without further notice or demand.

15. EASEMENTS

The lessor reserves the right to grant easements and rights-of-way across or upon the land described in this lease and to grant immediate possession thereof to the grantee of such easement. The lessor shall coordinate with the lessee before processing any easement applications on the leased land. The grantee of such easement shall, before exercising the same, pay to the lessee the reasonable value of the growing and immature crops and improvements, as determined by the lessor's appraisal; lessor's appraisal shall be conclusive. This lease is subject to any right-of-way or easement heretofore granted over the lands embraced by this lease.

16. PUBLIC USE

The lessee must allow the general public the right to use the lands described in the lease for outdoor recreation. However, nothing in this lease authorizes or purports to authorize trespass on private lands to reach state-owned lands. State lands shall not be restricted without prior written approval of the lessor. Grazing or cropland leases will not be considered exclusive use leases as described under Idaho Code, Section 36-1603.

17. WATER RIGHTS

The establishment of any water right or rights shall be by and for the lessor, and no claim thereto shall be made by the lessee; such rights shall attach to and become appurtenant to said land. The lessee shall not cause any water to be conveyed off the land without prior written approval of the lessor.

18. SEED HARVEST

The lessor reserves the right to harvest seed from plants on land not under a cropland lease. The lessor will coordinate the harvesting activities with lessee to minimize impacts on livestock operations.

19. ROAD CLOSURE

The lessor reserves the right to close roads for road protection, wildlife protection or administrative purposes. Planned road closures will be reviewed with lessee prior to action. The lessee will have the right to appeal to the Land Board decisions affecting his use.

20. LIABILITY

The lessee shall indemnify and hold harmless the lessor, its departments, agencies and employees for any and all claims, actions, damages, costs and expenses which may arise by reason of lessee's occupation of the leased premises, or the occupation of the leased premises by any of the lessee's agents, or by any person occupying the same with the lessee's permission.

21. BINDING ON HEIRS

All of the terms, covenants, and conditions of this lease shall be binding upon the heirs, executors and assigns of the lessee.

22. CIVIL RIGHTS

The lessee shall not discriminate against any person on the basis of such person's race, creed, color, sex, national origin or handicap.